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FEB 06 2006

OFFICE OF PETITIONS

In re Application of	:
Kesavan Esuvaranathan et al	: DECISION ON PETITION
Application No. 10/086,973	: UNDER 37 CFR 1.78(a)(3)
Filed: March 1, 2002	:
Attorney Docket No. 488002000200	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/SG/00130, filed September 1, 2000, set forth in the amendment submitted concurrently with the instant petition. This is also a decision on the petition under 37 CFR 1.182 for expedited consideration of the petition under 37 CFR 1.78(a)(3).

The petition considered under 37 CFR 1.78(a)(3) is **DISMISSED**.

The petition considered under 37 CFR 1.182 is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment filed November 4, 2005 claims priority to PCT Application No. PCT/SG/00130. However, the year of filing is missing from the PCT application No. Further, the examiner has indicated that the proposed amendment would not be entered because "[t]he proposed amendment to claim priority would render composition claims 57, 59-61, and 63-65 allowable, and necessitate rejoinder of withdrawn method claims 1, 3-16, 18-31, 33, 34, 36-41, 43, 46-56, and 62. Examination of these claims, in particular claim 41, would require further search and consideration, particularly with regard to enablement and written description issues." Therefore, since the amendment does not *prima facie* place the application in condition for allowance for the reasons indicated by the examiner, petitioner must now submit a Notice of Appeal, a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this decision must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

37 CFR 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3).

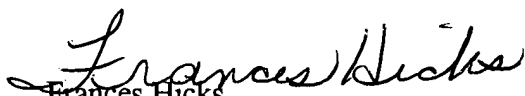
Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.


Frances Hicks
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